

Original

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

**FILED/ACCEPTED**

**NOV - 7 2007**

Federal Communications Commission  
Office of the Secretary

**In the Matter of**

**Appeal of Decision of the Universal Service  
Administrative Company Regard Results of 2007  
Improper Payment Improvement Act (IPIA) of the  
High Cost Program of Thumb Cellular Limited  
Partnership or, alternatively, Petition for  
Declaratory Ruling**

**CC Docket No. 96-45**

**Study Area Code: 319005**

**SAC: 319005**

**To: The Commissioners**

**APPEAL OF USAC'S DENIAL OF USF FUNDING OR,  
ALTERNATIVELY,  
MOTION FOR DECLARATORY RULING**

**Filed By Thumb Cellular, LLC**

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**November 7, 2007**

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## **Introduction**

Thumb Cellular, LLC (TCLLC),<sup>1</sup> by its attorneys, pursuant to 47 C.F.R. §§ 54.719(c), 54.720(a),(b), 54.722, and 54.723(a), hereby appeals the September 10, 2007, decision (Attachment 1 hereto) of the Universal Service Administrative Company (USAC) which determined that TCLCC has 60 days to "update [its] filings" and that high cost support which has been disbursed to TCLLC is subject to "recalculation."<sup>2</sup> Should the Commission determine that USAC has not yet taken adverse action and that the matter is not yet ripe for appeal, TCLLC respectfully submits that the issues are sufficiently framed to permit the issuance of a declaratory ruling pursuant to 47 C.F.R. § 1.2 for the purpose of removing uncertainty regarding various issues. In support whereof, the following is respectfully submitted:

### **A. Question Presented On Appeal**

1) Whether a) USAC correctly determined that the auditor properly concluded it lacked sufficient information to complete the audit; b) USAC correctly determined that TCLLC is required to submit additional data to avoid a recalculation of high cost support for the audit year; c) USAC correctly determined that TCLLC is required to maintain its supporting business records in a particular electronic format as demanded by USAC's Auditor; and d) TCLLC was provided with "full and explicit" prior notice regarding the format of the information which must be provided to

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<sup>1</sup> USAC's September 10, 2007, letter at issue in this matter was directed to "Thumb Cellular Limited Partnership." However, the Commission approved a *pro forma* reorganization in which "Thumb Cellular, LLC" became the Commission licensee. *See* File No. 0001841343. Accordingly, Thumb Cellular, LLC is the proper entity to seek relief.

<sup>2</sup> Collectively, these provisions authorize TCLLC to seek *de novo* review by the Commission within 60 days of USAC's subject September 10, 2007, letter. *See also* Attachment 1, page 1, where USAC instructs TCLLC that it has 60 days from September 10, 2007, to appeal USAC's decision.

an auditor conducting an audit pursuant to the Improper Payments Improvement Act (IPIA).

**B. Statement of TCLLC's Interest In The Matter Presented on Appeal**

2) It appears from USAC's September 10, 2007, letter, Attachment 1, page 1, that USAC agrees with the auditor's conclusion that TCLLC did not provide sufficient auditable information and that the lack of information prevented the auditor from completing its IPIA audit. USAC's September 10, 2007, letter states that unless there were a "refiling of data" within "60 days from the date of this letter" that USAC will "recover support" from TCLLC "upon recalculation." Attachment 1, page 1. As discussed below, the Auditor concluded that data must be provided to it in a particular electronic format. TCLLC was not required by the Commission's rules to maintain the records in the format required by the Auditor and TCLLC does not have any additional audit information to file with USAC. Because USAC claims that it does not have sufficient information to complete the audit, and because TCLLC does not maintain the information in the format demanded by USAC's Auditor, it appears that USAC will recalculate, and lower, the High Cost Support TCLLC received during the audit period. The loss of High Cost Support is an injury about which TCLLC may properly seek redress.

3) Should the Commission determine that the instant appeal is premature because no High Cost Support has yet been recovered from TCLLC, TCLLC respectfully submits that the issues presented are concrete enough to warrant the issuance of a declaratory ruling. As discussed below, the declaratory ruling would 1) instruct USAC and its auditor that audits must be made from "auditable" documentation regardless of the formatting of the information; 2) instruct USAC and the auditor and that the auditor cannot require that information will only be audited if it is presented in a particular format which format is not specified by the Commission's rules; 3) instruct USAC

and its Auditor to complete the audit based upon the "auditable" documentation provided by TCLLC or terminate the audit without adverse findings being entered against TCLLC.

### **C. Statement of Facts**

#### **1. TCLLC Provided Auditable Documentation to USAC's Auditor**

4) In February 2007, USAC performed its audit of TCLLC for the period October 1, 2004 through September 30, 2005 (the "Audit Period"). Several months prior to the commencement of the audit, as of September 1, 2006, TCLLC changed its billing vendors to effectuate consistency among TCLLC's and affiliates' accounting and billing systems. Attachment 1, page 5. As a result of this change in billing vendors, TCLLC no longer had access to the billing software provided by the previous billing vendor and TCLLC was not able retrieve and provide to USAC's Auditor electronic data covering the Audit Period. Although electronic data was no longer available for the Audit Period the data was made available to the Auditor in hard copy format -- paper documentation and PDF files. Attachment 1, page 6.

5) Attachment 2 is a copy of the supporting documentation request which USAC's Auditor provided at the outset of the audit.<sup>3</sup> Please refer to page 1 of Attachment 2. On the "Prepared by Client List" page prepared by the Auditor and appearing immediately above the boxes which seek various bits of information is text which states "Provide electronic files, if possible." Accordingly, from the outset of the audit, while preparation of electronic information was perhaps preferred by USAC's auditor, it was not presented as an audit requirement. Nevertheless, USAC's Auditor

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<sup>3</sup> Attachment 2 includes a document with Thumb's name and address and the text "Prepared by Client List." That document was prepared by USAC's Auditor and Thumb filled in blank spaces with handwriting. It is important to clarify that it was the Auditor who prepared the form of the document and who prepared the type written text which appears on the document.

refused to complete the audit based upon a determination that Thumb failed to provide information in electronic format. As explained below, it is not the Auditor's function to determine which format supporting information is maintained, but even if it were, the Auditor's transmogrification of its preference for one data format into a benefit denying requirement is unreasonable on its face.

## **2. The USAC Auditor's Claimed Inability to Complete the Audit**

6) USAC's Auditor claims that the hard copy data provided by TCLLC, documentation, which consisted of schedules detailing the subscriber information necessary to verify the existence and the number of working loops (line counts), was too voluminous for the Auditor to audit. Attachment 1, page 5. This simply is not true. All of the data and information necessary to verify the existence of the number of working loops (line counts) is contained in a paper file which is approximately five (5) inches high. The paper schedules provided to USAC's Auditor contained, without question, all of the data necessary for the USAC auditors to verify the line counts.<sup>4</sup> TCLLC's representatives explained the schedules to USAC's Auditor and showed the Auditor how the line counts could be verified through manual audit procedures.<sup>5</sup> USAC's Auditor did not ask any substantive questions of TCLLC's representatives regarding the "paper data" and the Auditor

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<sup>4</sup> The documentation would, of course, be provided to the Commission upon request.

<sup>5</sup> The Auditor's Report states that the audit could not be completed manually because "some of the phone numbers included on the hard copy subscriber listings were the contact persons' numbers," Attachment 1, page 5, and because "certain key data field (phone numbers) on the hard copy documents were not always accurate, and certain information needed for the test objectives were not available on the hard copy documents." Attachment 1, page 7. The data fields in TCLLC's documentation contain spaces for the mobile number for which USF funding is sought and a landline contact phone number associated with the mobile number if one is available. In cases where there was no landline contact phone number associated with a mobile number a dummy number, such as 9890000000, 1111111111, 9891111111 or something similar was inserted as a marker. This is not complicated and it was explained to the Auditor. However, it appears the auditor ignored the explanation to facilitate a rapid conclusion to the audit.

ignored TCLLC's explanation regarding the contents of the hard copy documents. USAC's Auditor simply decided, without elaboration, that the paper documentation submitted by TCLLC was "unauditable" and "insufficient" and the Auditor refused to complete the audit.

7) All of the documentation and data provided by TCLLC to USAC's Auditor would fit in one small box. The pertinent customer schedules necessary to verify the line counts, when stacked together, resulted in a stack only about five (5) inches (or less) high. It would not take an auditor very long to review that small amount of documentation and to verify TCLLC's subscriber line count claim. The auditing task was not insurmountable, it was not even difficult. The documentation was not "voluminous" and the data was certainly not "unauditable." Manual audit procedures could have easily been used to verify TCLLC's line counts. Manual audits were performed long before electronic data and procedures were available and, even with the introduction of computers over the past 20 or so years, manual audits are still performed today when electronic data is not available.<sup>6</sup> However, the Auditor plainly did not want to conduct a manual audit.

8) To TCLLC's knowledge, and as explained more fully below, there is nothing in the Commission's rules and regulations which requires TCLLC to maintain its business records and data in an electronic format. Moreover, USAC's Auditor does not have any authority to require that TCLLC provide line count verification data in any particular format nor does the Auditor have authority to determine that paper documentation is insufficient and unauditable merely because the Auditor would prefer auditing electronic data. That data which TCLLC provided to USAC's

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<sup>6</sup> Implicit in the facts above is the notion that TCLLC was not attempting to make the audit difficult for the Auditor. TCLLC had changed billing vendors immediately prior to the audit and TCLLC no longer had access to software necessary to provide electronic data. However, as explained below, and in full compliance with the Commission's requirements, TCLLC maintained documentation and business records to justify its subscriber line counts.

Auditor was auditable and more than adequate for the Auditor to verify TCLLC's subscriber line counts. USAC's Auditors simply refused to do its job.

#### **D. The Commission's Requirements Regarding Audit Documentation**

9) On August 29, 2007, twelve days before USAC issued its subject September 10, 2007 letter, and well after TCLLC was audited, the Commission released a *Report and Order*, FCC 07-150, which provides guidance regarding the documentation required to be kept by carriers seeking high cost support. Paragraph 24 of the *Report and Order* provides, in part, that the Commission

will require recipients of universal service support for high-cost providers to retain all records that they may require to demonstrate to auditors that the support they received was consistent with the Act and the Commission's rules, assuming that the audits are conducted within five years of disbursement of such support. These records should include without limitation the following: data supporting line count filings; historical customer records; fixed asset property accounting records; general ledgers; invoice copies for the purchase and maintenance of equipment; maintenance contracts for the upgrade or equipment; and any other relevant documentation. We clarify that beneficiaries must make available all such documents and records that pertain to them, including those of NECA, contractors, and consultants working on behalf of the beneficiaries to the Commission's OIG, to the USF Administrator, and to their auditors.

10) Prior to the release of the *Report and Order* TCLCC provided to USAC's Auditor the documentation now required by the Commission. However, the Auditor refused to audit that information because it was not presented in the electronic format the Auditor required. Attachment 1, page 5.<sup>7</sup> Prior to the Commission's August 29, 2007, *Report and Order*, it does not

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<sup>7</sup> The Auditor "recommends" that TCLLC "ensure that supporting documentation are maintained in both electronic and hard copy." Attachment 1, page 5. As discussed above, TCLLC was unable to provide electronic data for prior years because it changed software vendors. While TCLLC is capable of providing electronic data for periods after its software vendor change, it is not the Auditor's function to impose documentation formatting requirements. Similarly, the Auditor cannot require compliance with the Auditor's desire that TCLLC "ensure that system's data supporting the carrier's transaction can be retrieved regardless of what system was used." Attachment 1, page 5. This "recommendation" is unreasonable because TCLCC does not write the  
(continued...)



appear that TCLLC was required to maintain any records to support its High Cost funding request.<sup>8</sup> However, TCLLC did, in fact, maintain the very records the Commission now instructs carriers to maintain and TCLLC promptly provided those records to USAC's Auditor.<sup>9</sup> USAC's Auditor rejected TCLLC's submissions even though there is no Commission requirement that the carriers's supporting records be maintained in the electronic format required by USAC's Auditor. Moreover, the *Report and Order* does not empower USAC's Auditor to decide what records it will audit. The *Report and Order* plainly states that carriers shall maintain records "that they may require to demonstrate to auditors that the support they received was consistent with the Act and the Commission's rules . . . ." (Emphasis added). Carriers are given the discretion to maintain records in a format which will permit them to demonstrate compliance; the Auditor is not given discretion

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<sup>7</sup>(...continued)

software for its billing systems; TCLCC, not atypically, relies upon third-party vendors for billing solutions. Lastly, the Auditor's desire that TCLLC "include a unique identifier (e.g., phone number) of a customer on the subscriber listing," Attachment 1, page 5, ignores the fact that the documents which TCLLC provided to the Auditor included the customers' mobile phone numbers.

<sup>8</sup> For the purposes of this appeal TCLCC has not researched whether OMB has yet approved the information collections contained in paragraph 24 of the *Report and Order*. However, those requirements post-date the audit at issue in this case. Moreover, because there was no prior requirement to maintain any supporting records it appears that TCLLC cannot be faulted for not having any piece of information nor can it be faulted for having its information in an incorrect format. TCLLC cannot be denied a Federal benefit, i.e., its High Cost Support, where OMB did not approve the information collections which USAC and the Auditor seek to impose upon TCLLC. While Paperwork Reduction Act arguments may be presented to an appeals court for the first time on appeal, *See Center for Auto Safety v. National Highway Traffic Safety Administration*, 244 F.3d 144, 150 (D.C. Cir. 2001) (a PRA claim may be raised "at any time during ongoing proceedings"), the argument is raised here as a courtesy to the Commission.

<sup>9</sup> It is noted that 47 C.F.R. §§ 32.11 & 32.2000(e)(2) requires telecommunications "companies" to maintain "auditable" records without specifying that the information must be maintained in the electronic format demanded by USAC's Auditor. While TCLCC is not an incumbent local exchange carrier covered by the rule, TCLCC's records are "auditable" and USAC's Auditor could have audited them had it desired to do so.

to require that the information be presented in a particular format. TCLCC has maintained reasonable, auditable business records to support its High Cost support request, even though it appears that TCLLC was not required to do so, and TCLLC timely provided that information to the Auditor. The Auditor's and USAC's rejection of that information is not supported by the Commission's rules and is not reasonable on its face.

#### **E. Lack of Notice Regarding Formatting Requirements Imposed by the Auditor**

11) As discussed above, there is nothing in the Commission's rules which requires TCLLC to maintain its business records in the electronic format sought by the auditor. USAC's September 10, 2007 letter indicates that High Cost Funding will be denied to TCLLC based upon a recalculation of support if TCLLC does not provide the information in the format sought by the auditor. Case law is clear that when the Commission denies a Federal benefit based upon a failure to provide a particular piece of information, "full and explicit" prior notice of the requirement must be provided to the applicant seeking the Federal benefit. *Salazar v. FCC*, 778 F.2d 869, 871-72 (D.C.Cir. 1985) (parties before the FCC are entitled to "full and explicit notice"). There is nothing in the Commission's rules or case law which undersigned counsel could find which would inform TCLLC that it must maintain its records in the electronic format sought by USAC's Auditor. Indeed, as discussed above, even the Commission's August 29, 2007, *Report and Order*, does not require that business records be stored in a particular electronic format. Moreover, the Auditor's own data request, Attachment 2, page 1, presented the electronic format issue as a preferred format and then only "if possible." Accordingly, because there was no prior notice of USAC's and its Auditor's requirement that TCLLC's business records must be maintained in a particular format, TCLLC did not receive "full and explicit" notice of the requirement as required by 5th Amendment

Due Process and TCLLC's High Cost Support funding cannot be reduced based upon a purported failure to provide its business records in the electronic format demanded by USAC's Auditor.

**F. Statement of Relief Sought**

WHEREFORE, in view of the information presented herein, it is respectfully submitted that the Commission direct USAC and its Auditor to complete the audit using the available paper documentation or, alternatively, direct USAC to terminate the audit without adverse findings being entered against TCLLC.

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Respectfully submitted,  
THUMB CELLULAR, LLC

  
Timothy E. Welch

November 7, 2007

Its Attorneys

**Attachment 1–USAC’s September 10, 2007 Letter and Auditor’s Report**



September 10, 2007

Neil Eichler  
Thumb Cellular Limited Partnership  
7585 West Pigeon Rd  
P.O. Box 650  
Pigeon, MI 48755

RE: Results of 2007 Improper Payment Improvement Act (IPIA) Audit of the High Cost Program of Thumb Cellular Limited Partnership (SAC 319005)

As you know, Clifton Gunderson on behalf of USAC recently completed an audit of Thumb Cellular Limited Partnership. The final report from that audit is attached for your reference, along with the High Cost Management response, if applicable.

In cases where refileing of data is required, carriers have 60 days from the date of this letter to update their filings. If these data are not refiled timely, USAC reserves the right to recover support from the affected component(s) for the audit period(s).

Upon recalculation of support by NECA and/or USAC, adjustments will be made where applicable. As a matter of administrative practice, USAC does not disburse funds due to audit where the net variances in USF support calculations would entitle a carrier to receive additional funds.

As is the case with any administrative decision made by USAC, you have the right to appeal this decision. You may appeal to USAC or the FCC, and the appeal must be filed within 60 days of the date of this letter. Additional information about the appeals process may be found at <http://www.usac.org/hc/about/filing-appeals.aspx>.

If you have any questions, please contact the High Cost program at 202 776 0200 or [hcinfo@usac.org](mailto:hcinfo@usac.org).

Sincerely,

High Cost Program Management

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**Thumb Cellular Limited Partnership  
(SAC No. 319005)**

**ATTESTATION EXAMINATION REPORT**

**For the Period  
October 1, 2004 through September 30, 2005**

**UNIVERSAL SERVICE  
ADMINISTRATIVE COMPANY**

**Report No. HC-2006-108**



## Independent Accountant's Report

Thumb Cellular Limited Partnership

Universal Service Administrative Company

Federal Communications Commission

We were engaged to examine management's compliance with the applicable requirements of 47 C.F.R. Part 54, Subparts C, D, J and K, and Part 36, Subpart F of the Federal Communications Commission's (FCC) Rules and Applicable Orders (requirements), relative to the \$834,545 support received by the Thumb Cellular Limited Partnership (Thumb Cellular) from the Universal Service Fund High Cost Program for the period October 1, 2004 through September 30, 2005. Management is responsible for Thumb Cellular's compliance with those FCC requirements.

We were unable to satisfy ourselves with the number of the working loops (line counts) reported on FCC Form 507, *Interstate Common Line Support Mechanism – Line Count Report* (Form 507). The line counts data is a key factor in determining high cost support. Detailed information relative to the scope limitation is described in Attachment 1.

Since Thumb Cellular could not provide auditable line counts data/subscriber listings for our examination within a reasonable period, the scope of our work was not sufficient to enable us to express and, therefore, we do not express, an opinion on whether Thumb Cellular complied with the FCC requirements relative to the \$834,545 support received from the Universal Service Fund High Cost Program for the period October 1, 2004 through September 30, 2005.

This report is intended solely for the information and use of the Thumb Cellular, the Universal Service Administrative Company and the Federal Communications Commission and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

*Clifton Gunderson LLP*

March 15, 2007

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**Attachment 1**

**Detailed Information Relative to Scope Limitation**

**(Presented in accordance with the standards applicable to attestation engagements contained in  
*Government Auditing Standards*)**

- CONDITION:** Thumb Cellular changed its billing system and could no longer provide an electronic file of the line counts data/subscriber listings for our verification of the accuracy and existence of the number of working loops (line counts) submitted to USAC on FCC Form 507.
- Although Thumb Cellular provided us with the hard copy of the subscriber listings, we could not perform key audit procedures such as test for duplicate lines, proper inclusion or exclusion of the line counts, and others, using the hard copy listings due to the volume of transactions. Moreover, some of the phone numbers included on the hard copy subscriber listings were the contact persons' numbers, which prevented us from even manually performing the audit procedures.
- CRITERIA:** 47 C.F.R. § 54.307 (3) (b) states that "In order to receive support pursuant to this subpart, a competitive eligible telecommunications carrier must report to the Administrator the number of working loops it serves in a service area pursuant to the schedule set forth in paragraph (c) of this section."
- CAUSE:** Thumb Cellular changed its system and could no longer retrieve the electronic data. Moreover, Thumb Cellular explained that there was no clear guidance from USAC as to records maintenance.
- EFFECT:** Accuracy and validity of the line count data submitted in FCC Form 507 could not be validated. Accordingly, the high cost support received by Thumb Cellular, which was substantially based on the line counts data submitted, could not be tested.
- RECOMMENDATION:** We recommend that Thumb Cellular management:
1. Ensure that system's data supporting the carrier's transactions can be retrieved regardless of what system was used.
  2. Ensure that supporting documentation are maintained in both electronic and hard copy.
  3. Include a unique identifier (e.g. phone number) of a customer on the subscriber listing.
- THUMB CELLULAR RESPONSE:**
1. Due to recent changes in Thumb Cellular's billing system, Thumb Cellular was unable to provide the electronic data file requested by the auditors relating to line counts data/subscriber listing.

2. Thumb Cellular did, in fact, provide a hard paper copy of all the subscriber listings and other pertinent information necessary to verify the line counts data/subscriber listings. In addition to the hard paper copy, Thumb Cellular offered to make available in PDF format, the same data which the auditors could have converted for use in audit procedures. The auditors chose not to have the data converted to PDF format.
3. The auditors chose not to audit the hard copy or request the data in PDF format, apparently because it would have taken longer and would have been more difficult than being able to audit an electronic file. It was not that the records provided by Thumb Cellular were "unauditable," it was simply that the auditors chose not to audit the hard copy or a PDF copy, which could have been provided to them by Thumb Cellular.
4. There has been no clear guidance from USAC as to records maintenance and records requirements. It is also our understanding that there are no requirements under FCC rules and regulations that records be maintained in any particular format. The general rule is simply that records must be "auditable." Thumb Cellular believes that their records, which were provided to the USAC, are auditable and that the records support and verify the accuracy and existence of the number of working loops (line counts) that were submitted to the auditors by Thumb Cellular on FCC Form 507. Thumb Cellular also believes that the auditor's records support and verify that Thumb Cellular complied with FCC requirements relative to the support received by Thumb Cellular from the Universal Service Fund High Cost Program for the period October 1, 2004, through September 30, 2005.
5. Thumb Cellular is in the process of assuring, should it become a USAC requirement, that a data retrieval system will be in place so that future audits can be accomplished electronically no matter what billing system is being used. In the future, supporting documentation will be maintained in both electronic and hard copy.
6. Thumb Cellular is reviewing the issue of including a "unique identifier" in its data base to simplify the audit process.
7. Thumb Cellular has the data in hard copy necessary to support and verify the data provided by Thumb Cellular to the USAC, and to verify the accuracy and appropriateness of the support received from the Universal Service Fund High Cost Program for the period October 1, 2004 through September 30, 2005.

#### **AUDITOR'S EVALUATION OF MANAGEMENT RESPONSE:**

We acknowledged that Thumb Cellular provided us with the hard copy supporting documentation as mentioned in the condition above. However, as explained in the condition above, the quality of the data in

the hard copy supporting documentation was such that they could not be used for our testing purposes. Certain key data field (phone numbers) on the hard copy documents were not always accurate, and certain information needed for the test objectives were not available on the hard copy documents.

*Government Auditing Standards* and AICPA Field Work Standards for Attestation Engagements state that "the practitioner [auditor] must obtain sufficient evidence to provide a reasonable basis for the conclusion that is expressed in the report." This requires the auditor to obtain sufficient, reliable and relevant evidence to achieve the audit objectives.

In an attestation examination, the auditor is required to assess the attestation risk. One of the components of an attestation risk is *Detection Risk*. *Detection risk* is "the risk that a material misstatement that elude the client [auditee] will also elude the practitioner." Under the current auditing environment, the use of computer assisted audit techniques (CAATs) has become a necessary audit tool in obtaining audit evidence. CAATs refer to techniques and audit programs that are developed to audit, among others, data that cannot be audited manually. With the volume of copies and the specific audit procedures to be performed on the data, such as tests for duplicate phone numbers, addresses, and proper inclusion or exclusion of a line as of a reporting date, manual auditing will not be the appropriate audit procedure to reduce the detection risk to an acceptable level. As such, we were unable to perform key audit procedures to obtain sufficient and reliable audit evidence to express an opinion on Thumb Cellular's compliance with the FCC requirements relative to the \$834,545 support received from the Universal Service Fund High Cost Program for the period October 1, 2004 through September 30, 2005.



Universal Service Administrative Company

## **USAC Management Response**

**Date:** June 1, 2007

**Subject:** Improper Payment Improvement Act (IPIA) Audit of the High Cost Program of Thumb Cellular, HC-2006-108

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USAC management has reviewed the IPIA Audit of Thumb Cellular ("the Carrier"), SAC 319005. The audit firm Clifton Gunderson LP has issued a disclaimer of opinion in its audit report. Our response to the audit is as follows:

### **Finding**

#### **Condition:**

Thumb Cellular changed its billing system and could no longer provide an electronic file of the line counts data/subscriber listings for...verification of the accuracy and existence of the number of working loops (line counts) submitted to USAC on FCC Form 507.

Although Thumb Cellular provided...hard copy of the subscriber listings, [Clifton Gunderson] could not perform key audit procedures such as test for duplicate lines, proper inclusion or exclusion of the line counts, and others, using the hard copy listings due to the volume of transactions.

Moreover, some of the phone numbers included on the hard copy subscriber listings were the contact persons' numbers, which prevented [Clifton Gunderson] from even manually performing the audit procedures.

#### **Management Response:**

At issue here is the level of documentation that carriers must retain and provide to the auditors upon request. While High Cost management believes that support for the concept of a records retention requirement can be found in Part 32 of the FCC's rules regarding incumbent carrier financial records, FCC rules remain silent on records retention requirements necessary to support line count filings under Part 54. USAC has requested guidance from the FCC regarding proper documentation retention relating to High Cost support. Based on the FCC's guidance, USAC will determine what further action must be taken with respect to the Carrier.

This concludes the USAC management response to the audit.

## **Attachment 2–USAC’s Auditor’s Initial Request for Supporting Documentation**

**Thumb Cellular Limited Partnership**  
**Pigeon, MI**  
**Twelve months ended 9/30/2005**  
**Study Area Code: 319005**

**Prepared by Client List**

Please provide the information requested below that was used to determine:

- **Local Switching Support** provided by USAC in **December 2004 and January 2005,**
- **Interstate Common Line Support** provided by USAC in **December 2004 and January 2005,**
- **High Cost Loop Support** provided by USAC in **December 2004 and January 2005,**

including any adjustments that were factored into the payments for those months.

Provide electronic files, if possible.

Documents/Information Requested	Timeframe	Date Received by Clifton Gunderson
Trial Balance	Applicable Period	emailed 1/9/07
Part 64 Cost Study or ARMIS Report	Applicable Period	N/A
Audit reports/Financial Statements	12/31/2004 and 2005	emailed 1/6/07
Evidence of Advertising	During disbursement period	Paul
Continuing Property Records (COE & CWF)/ Fixed Asset Schedule	Applicable Period	emailed 1/6/07
Depreciation Schedules	Applicable Period	2
Accumulated Depreciation Schedules (Roll Forward)	Applicable Period	2
Federal Income Taxes	Applicable Period	emailed 1/6/07
Support for Property Taxes	Paid during audit period	Paul 1/22/07
Line Counts by Exchange	Applicable Periods	Paul
Full Cost Study Part 36 and Part 69	Applicable Period	N/A
Sample monthly bills to support revenue amounts reported	Applicable Period	Paul
Reconciliation of Benefits and Rents	Applicable Period	emailed 1/6/07

Universal Service Administrative Company  
High Cost Beneficiary Audit  
September 30, 2005

PBC Request - (Thumb Cellular Limited Partnership)

Please provide the following documents:

- 1 Articles of incorporations, by-laws, EIN number, membership agreements (i.e., NECA), contract agreements from 2002 to present.
- 2 Debt Provisions - *Cobank - 7 time period*
- 3 Eligible Telecommunications Carrier (ETC) designation order.
- 4 Copy of Certification, stating that the carrier is opting not to disaggregate and target support.
- 5 Copy of the order from either the state commission or the FCC, approving the disaggregation plan.
- 6 Copy of the disaggregation plan approved by the state commission or the FCC.
- 7 Maps precisely identifying the boundaries of the approved disaggregation zones with the carrier's study area.
- 8 Copy of the self-certification plan, including the information submitted to the state commission or the FCC.
- 9 Maps precisely identifying the boundaries of the approved disaggregation zones within the carrier's study area.
- 10 Publicly available information that allows competitors to verify and reproduce the algorithm used to determine zone support levels.
- 11 Information demonstrating that the underlying rationale is reasonably related to the cost of providing service each cost zone within each disaggregated category.
- 12 Provide information if Thumb Cellular Limited Partnership has acquired access lines during the audit period that may be eligible for safety valve support.
- 13 Provide information that Thumb Cellular Limited Partnership has provided counts of working loop during the audit period.
- 14 General ledger details (text format).

*What A/c's*


*Antise*

*10-1-04  
9-30-05*

## CERTIFICATE OF SERVICE

I hereby certify that I have this 7th day of November 2007 served the foregoing *APPEAL OF USAC'S DENIAL OF USF FUNDING OR, ALTERNATIVELY, MOTION FOR DECLARATORY RULING* by First Class United States Mail, postage prepaid, upon the following:

Karen Majcher  
Vice President—High Cost Low Income Division  
USAC  
2000 L Street, N.W. #200  
Washington, D.C. 20036

  
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Timothy E. Welch